

Instructions for Form FTB 5805

Underpayment of Estimated Tax by Individuals and Fiduciaries

General Information

Proposition 63, approved by voters on November 2, 2004, enacted the Mental Health Services Act, which imposes an additional 1% tax on taxable income over \$1,000,000.

Effective for taxable years beginning 2005, Alternative Minimum Tax (AMT) is included in the calculation of estimated tax.

For taxable years beginning on or after January 1, 2005, the underpayment of estimated tax penalty shall not apply to the extent the underpayment of an installment was created or increased by any provision of law that is chaptered during and operative for the taxable year of the underpayment. To request a waiver of underpayment of estimated penalty, follow the directions under General Information C.

Registered Domestic Partners (RDP)

RDPs under California law must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified.

If you entered into a same sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status. For more information on what states have legal unions that are considered substantially equivalent, go to our website at ftb.ca.gov and search for RDP.

For purposes of California income tax, references to a spouse, a husband, or a wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials RDP they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

Round Cents to Dollars

Round cents to the nearest whole dollar. For example, round \$50.50 up to \$51 or round \$25.49 down to \$25. If you do not round, the Franchise Tax Board (FTB) will disregard the cents. This helps process the return quickly and accurately.

A Purpose

Use form FTB 5805, Underpayment of Estimated Tax by Individuals and Fiduciaries, to see if you owe a penalty for underpaying your estimated tax and, if you do, to figure the amount of the penalty.

B Who Must File

Generally, you do not have to complete this form. If you owe a penalty, the FTB figures the penalty for you and sends you a bill after you have filed your return. You must pay the penalty within 15 days of the billing to avoid additional interest charges.

Important: If you answer "Yes" to any of the questions in Part I (estates and trusts, see General Information E), complete this form and attach it to the **back** of your return.

C Waiver of the Penalty

You may request a waiver of the penalty if either one of the following apply:

- You underpaid an estimated tax installment due to a casualty, disaster, or other unusual circumstance and it would be inequitable to impose the penalty.
- You retired after age 62 or became disabled in 2007 or 2008 and your underpayment was due to reasonable cause.

To request a waiver do all of the following:

- Check "Yes" on form FTB 5805, Part I, Question 1, and in the space provided, explain why you are requesting a waiver of the estimate penalty. If you need additional space, attach a statement. Be sure to include your name and tax ID number to any statement you attach.
- Complete form FTB 5805 through Part II, line 12 (Worksheet II, line 13 if you use the regular method) without regard to the waiver. Write the amount you want waived in parentheses on the dotted line next to Part II, line 13 (Worksheet II, line 14 if you use the regular method). Subtract this amount from the total penalty you figured without regard to the waiver, and enter the result on Part II, line 13 (Worksheet II, line 14 if you use the regular method).
- Fill in the circle on Form 540/540A, line 64; Long Form 540NR, line 71; or Form 541, line 42.
- Attach form FTB 5805 to the **back** of your return.

D Annualized Income Installment Method

If your income varied during the year and you use the annualized income installment method to determine your estimate payment requirements, you must complete form FTB 5805, including Side 2. Attach it to the **back** of your return. Also fill in the circle on Form 540/540A, line 64; Long Form 540NR, line 71; or Form 541, line 42 for the underpayment of estimated tax.

E Estates and Trusts

Estates and trusts are required to make quarterly estimated tax payments. Estates and grantor trusts, which receive the residue of the decedent's estate, are required to make estimated income tax payments for any year ending two or more years after the date of the decedent's death. If you answer "Yes" to Question 4, complete Part I **only** and attach form FTB 5805 to the **back** of your return.

Exempt trusts should use form FTB 5806, Underpayment of Estimated Tax by Corporations.

F Nonresidents and New Residents

The penalty for the underpayment of estimated tax applies to nonresidents and new residents. See the conditions listed in the box labeled "Important" on Side 1 of form FTB 5805.

In 2001, California changed the method used to calculate loss carryovers, deferred deductions, and deferred income for nonresident and part-year resident taxpayers (AB 1115, Stats 2001, Ch. 920). This law changed the tax computation

to recognize those items, and established a new method of determining percentages for computing tax for all nonresidents and part-year residents. California changed the nonresident tax forms (Long and Short Form 540NR) to more clearly show that nonresidents are taxed by California only on their California taxable income. For more information get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

California law is compatible with the Servicemembers Civil Relief Act (Public Law 108-189). This means that servicemembers domiciled outside of California, and their spouses/RDPs, may exclude the servicemember's military pay from gross income when computing the tax rate on nonmilitary income.

Requirements for military servicemembers domiciled in California remained unchanged. Military servicemembers domiciled in California must include their military pay in total income. In addition, they must include their military pay in California source income when stationed in California. However, military pay is not California source income when a servicemember is permanently stationed outside of California. For more information, get FTB Pub 1032, Tax Information for Military Personnel.

G Farmers and Fishermen

You are considered a farmer or fisherman if at least two-thirds (2/3) of your annual gross income for 2007 or 2008 is from farming or fishing. Farmers and fishermen are required to make one estimate payment. For calendar year taxpayers, the due date is January 15, 2009. If you file Form 540, Long Form 540NR, or Form 541 and pay the entire tax due by March 1, 2009, you do not owe a penalty for underpaying estimated tax. Use form FTB 5805F, Underpayment of Estimated Tax by Farmers and Fishermen.

H Due Dates for Estimated Tax Installments

If you are a calendar year taxpayer, the estimated tax installment due dates for 2008 were:

- First quarter — April 15, 2008
- Second quarter — June 16, 2008
- Third quarter — September 15, 2008
- Fourth quarter — January 15, 2009

Fiscal year filers must pay estimated tax installments on the 15th day of the 4th, 6th, and 9th months of their fiscal year, and the 1st month of the following fiscal year.

The penalty is figured separately for each due date. Therefore, you may owe a penalty for an earlier installment due date, even if you pay enough tax later to make up the underpayment.

When the estimate due date falls on a weekend or holiday, the deadline to file and pay without penalty is extended to the next business day.

I Filing an Early Return in Place of the 4th Installment

If you file your 2008 tax return before February 1, 2009, and pay the entire balance due, you do not have to make your last estimate payment. Fiscal year filers must file their return and pay their tax before the first day of the 2nd month after the end of their taxable year.

J Amended Return

If you file an amended return:

- On or before the due date of your original return, use the tax, credit, and other amounts shown on your amended return to figure your penalty for underpayment of estimated tax.
- After the due date of the original return, you must use the amounts shown on the original return to figure the penalty.

K Penalty Rates

The rates used to determine the amount of your penalty are established at various dates throughout the year. If an installment of estimated tax for any quarter remained unpaid or underpaid for more than one rate period, the penalty for that underpayment will be figured using more than one rate when applicable.

The following rates apply to the 2008 computation period:

- 8% 4-15-08 through 6-30-08
- 7% 7-01-08 through 12-31-08
- 5% 1-01-09 through 6-30-09

Fiscal year filers: the rates for the periods 7/1/09 through 12/31/09 and 1/1/10 through 6/30/10 will be determined by the FTB in March 2009 and September 2009, respectively.

Call the FTB's automated toll-free phone service to get updated penalty rates. Call the number below, select "Personal Income Tax," then select "General Tax Information." Enter code number **403** when instructed.

The automated toll-free phone service is available in English and Spanish to callers with touch-tone telephones 24 hours a day, seven days a week.

From within the United States, call 800.338.0505
From outside the United States, call (not toll-free) 916.845.6600

Specific Line Instructions

Part II — Computing the Required Annual Payment

Use this part to figure the amount of estimated tax that you were required to pay.

Certain high-income taxpayers are required to use 110% (instead of 100%) of the tax shown on their previous year's return in the computation of the required annual payments. See the instructions for line 5.

Line 1 — Enter your tax liability (excluding any tax on lump-sum distributions) from your 2008 Form 540, add line 30, line 31, and line 32 less the amount on 39 and line 43; Form 540A, add line 30 and line 32 less the amount on line 39 and

line 43; Long Form 540NR, add line 38, line 39, and line 40 less the amount on 46 and line 50; or Form 541, add line 25, line 26, and line 27.

Line 3 — Enter the amounts from your 2008 Form 540, line 36 and line 38; Form 540A, line 36; Long Form 540NR, line 43 and line 44; or Form 541, line 29 and line 31.

Line 5 — Enter your tax liability (excluding any tax on lump-sum distributions) from your 2007 Form 540, add line 30, line 31 and line 32, less line 39 and line 43; Form 540A, add line 21 and line 22 less the amount on line 27 and line 31; or, Long Form 540NR, add line 38, line 39 and line 40, less line 46 and line 50; or Form 541, line 28.

If the adjusted gross income shown on your 2007 California tax return is more than \$150,000, or more than \$75,000 if married/RDP filing a separate return, then enter 110% (1.10) of the tax liability from your 2007 return on line 5.

If you did not file a return for 2007, or if your 2007 taxable year was less than 12 months, do not complete line 5. Instead, enter the amount from line 2 on line 6.

Short Method

You may use the short method only if you are a calendar year taxpayer and either one of the following apply:

- You made no estimated tax payments or your only payments were California income tax withheld.
- You paid estimated tax in four equal amounts on the due dates.

If any payment was made earlier than the due date, you may use the short method, but using it may cause you to pay a larger penalty than using the regular method. If the payment was only a few days early, the difference is likely to be small.

You may **not** use the short method if either of the following apply:

- You made any estimated tax payment late.
- You answered "Yes" to Part I, Question 3.

If you can use the short method, complete Part II, line 1 through line 10 to figure your total underpayment for the year, and line 11 through line 13 to figure the penalty.

Part III — Annualized Income Installment Method

If your income varied during the year, you may be able to lower or eliminate the amount of one or more required installments by using the annualized income installment method. Use Part III to figure the required installment amount to enter on Worksheet H — Regular Method to Figure Your Underpayment and Penalty, line 1 (page 4).

Complete line 1 through line 16 to figure your current year tax, per quarter, based on your income

as you earned it. Then, complete line 17 through line 23 to figure your required installment for each quarter. (The total of all amounts entered on line 23 should equal the amount from Part II, line 6.)

If you use the annualized income installment method for any payment due date, you must use it for all payment due dates. To figure the amount of each required installment, Part III automatically selects the smaller of the annualized income installment or the regular installment (increased by the amount saved by using the annualized income installment method in figuring earlier installments).

If you are filing Long Form 540NR, see Long Form 540NR Instructions for Part III at the end of this section.

Line 1 — Figure your total income minus your adjustments to income for each period from 01/08 to the ending date of each period (the amounts are cumulative). Include your share of partnership or S corporation income or loss items for the period.

Line 2 — Form 541 filers. Do **not** use amounts shown in column (a) through column (d). Instead, use 6, 3, 1.71429, and 1.09091, respectively, as the annualization amounts.

Line 6 — Multiply line 4 by line 5 and enter the result on line 6. Your annualized itemized deductions are limited if, in any quarter, federal annualized income (use Federal Annualized Income Worksheet below) is greater than:

- \$326,379 (married/RDP filing jointly or qualifying widow(er)).
- \$163,187 (single or married/RDP filing separately).
- \$244,785 (head of household).

Use the following worksheet to figure the amount to enter on line 6, of Part III for each period federal annualized income reaches the above amounts.

- Enter the amount from Part III, line 4 **1** _____
- Using California amounts, add the amounts on federal Schedule A, line 4, line 14, and line 20 plus any gambling losses included on line 28 **2** _____
- Subtract line 2 from line 1 **3** _____
- Enter the number from Part III, line 5 **4** _____
- Multiply the amount on line 1 by line 4 **5** _____
If the amount on line 3 is zero, stop here and enter the amount from line 5 on Part III, line 6.
- Multiply the amount on line 3 by the number on line 4 **6** _____

(continued on page 3)

Federal Annualized Income Worksheet

Estates and trusts **do not** use the period ending dates shown to the right. Instead, use the following: 2/29/08, 4/30/08, 7/31/08, and 11/30/08.

| | | (a) 1/1/08-3/31/08 | (b) 1/1/08-5/31/08 | (c) 1/1/08-8/31/08 | (d) 1/1/08-12/31/08 |
|---|----------|-----------------------|-----------------------|-----------------------|------------------------|
| 1 Enter your federal adjusted gross income* for each period (see instructions federal Form 2210, Schedule A1, Part I, line 1). (Estates and trusts, enter your taxable income without your exemption for each period.) | 1 | | | | |
| 2 Annualization amounts. (Estates and trusts, see instructions federal Form 2210, Schedule A1, Part I, line 2) | 2 | 4 | 2.4 | 1.5 | 1 |
| 3 Annualized federal income. Multiply line 1 by line 2 | 3 | | | | |

*Note: If you are a military servicemember domiciled outside of California, subtract your military pay from your federal AGI.

- 7 Multiply the amount on line 6 by 80% (.80) 7
- 8 Enter the amount from Federal Annualized Income Worksheet line 3 8
- 9 Enter the amount shown from page 2, line 6 instructions for your filing status 9
- 10 Subtract line 9 from line 8 10
- 11 Multiply the amount on line 10 by 6% (.06) 11
- 12 Enter the smaller of line 7 or line 11 12
- 13 Subtract line 12 from line 5. Enter the result here and on Part III, line 6 13

Line 7 – Enter the total standard deduction allowed for your filing status in each column even if you itemized your deductions.

Line 10 – Form 541 filers. Figure the tax on the amount in each column of line 9 using the tax rate schedule in your tax booklet. Also, include any tax from:

- Form FTB 5870A, Tax on Accumulation Distribution of Trusts
- IRC Section 453A tax

Line 11 – If your exemption credits were limited by adjusted gross income (AGI), it may be to your advantage to make a separate computation for each period. If you choose, you may complete the exemption credit worksheet in your tax booklet for each period.

If you filed a Long Form 540NR, complete the AGI Limitations Worksheet found in your tax booklet and transfer the amount from line N to line 11 on form FTB 5805.

Line 13 – Enter the special credits you are entitled to because of events that occurred during the months shown in the column headings.

Credit Limitation – If your special credits were limited by tentative minimum tax (TMT), it

may be to your advantage to make a separate computation for each period. If you choose, you may complete a separate Schedule P (540 or 541) for each period.

Line 14b – Enter the alternative minimum tax and mental health tax from your 2008 Form 540, line 31 and line 32; 2008 Form 540A, line 32; 2008 Long Form 540NR, line 39 and line 40; or 2008 Form 541, line 26 and line 27.

Long Form 540NR Instructions for Part III

Use these instructions only if you are filing Long Form 540NR.

If you are a nonresident military servicemember domiciled outside of California, subtract your military pay from your federal AGI.

Line 1 – Enter your total adjusted gross income (AGI) for each period. Your total AGI is your AGI for the period from all sources.

Line 12 – Long Form 540NR filers complete Worksheet 1 below.

California AGI is all of the income you earned while you were a California resident plus any income received from sources within California while you were a nonresident, less applicable income adjustments. For more information, get the instructions for Schedule CA (540NR), California Adjustments – Nonresidents or Part-Year Residents.

Line 13 – Refigure Long Form 540NR, line 28 through line 36. Prorate the credits on line 28 through line 30 using the ratio from Line N of Worksheet 1.

Instructions for Worksheet II – Regular Method to Figure Your Underpayment and Penalty

Part I – Figure Your Underpayment

Line 1 – Enter in column (a) through column (d) the amount of your required installment. For most

taxpayers, this is the amount shown on form FTB 5805, Side 1, Part II, line 6 divided by 4. If you use the annualized income installment method, enter the amounts from form FTB 5805, Side 2, Part III, line 23.

Line 2 – Enter the estimate payments made by the date at the top of each column.

Include in column (a) any overpayment of tax from your 2007 return that you elected to apply to the 2008 estimated tax.

Divide by 4 the amount you entered on form FTB 5805, Part II, line 3, and enter the result in each column, unless you can show it was withheld otherwise.

For withheld California income tax, you are considered to have paid 1/4 of these amounts on each payment due date unless you can show otherwise. If you can show that your California withholding was withheld in uneven amounts, answer "Yes" to Part I, Question 3 and enter the uneven amounts withheld on the lines provided on Part I, Question 3.

If you file your return and pay the tax due before February 1, 2009, enter the amount of tax paid with your return in column (d). In this case, you will not owe a penalty for the estimate payment due by January 15, 2009.

Line 8 – If line 8 is zero for all payment periods, you do not owe a penalty. But if you answer "Yes" for any question on form FTB 5805, Side 1, Part I, you must file form FTB 5805 with your return.

Part II – Figure the Penalty

Figure the penalty by applying the appropriate rate against each underpayment shown on line 8. The penalty is figured for the number of days that the underpayment remained unpaid.

The rates are established at various times throughout the year. If an underpayment remained unpaid for more than one rate period, the penalty on that underpayment will be figured using more than one rate period.

| Worksheet I – Prorated Tax for Long Form 540NR Filers | | 1/1/08 to 3/31/08 | 1/1/08 to 5/31/08 | 1/1/08 to 8/31/08 | 1/1/08 to 12/31/08 |
|---|---|----------------------|----------------------|----------------------|-----------------------|
| A | Tax on annualized total taxable income from Part III, line 10 | | | | |
| B | Annualized total taxable income from Part III, line 9 | | | | |
| C | Annualized California tax rate: Divide line A by line B | . _____ | . _____ | . _____ | . _____ |
| D | California AGI. Enter the amount from Schedule CA (540NR), line 45 that is applicable for the period | | | | |
| E | Annualization amounts | 4 | 2.4 | 1.5 | 1 |
| F | Annualized California AGI. Multiply line D by line E | | | | |
| G | Annualized Total AGI. Enter the amount from Part III, line 3 | | | | |
| H | Annualized itemized or standard deduction rate. Divide line F by line G. Do not enter more than 1.0000 | __ . _____ | __ . _____ | __ . _____ | __ . _____ |
| I | Enter the amount from Part III, line 8 | | | | |
| J | Prorated standard deduction or annualized itemized deductions. Multiply line I by line H | | | | |
| K | Annualized California taxable income. Subtract line J from line F | | | | |
| L | Annualized California prorated tax before exemption credit. Multiply line K by line C | | | | |
| M | Exemption credits. Enter the amount from Part III, line 11 | | | | |
| N | Annualized credit rate. Divide line K by line B | __ . _____ | __ . _____ | __ . _____ | __ . _____ |
| O | Annualized prorated exemption credits. Multiply line M by line N | | | | |
| P | Annualized California tax after exemption credits. Subtract line O from line L. Enter this amount here and on Part III, line 12 | | | | |

Use line 10 and line 12 to figure the number of days the underpayment remained unpaid. Use line 11 and line 13 to figure the actual penalty amount by applying the rate against the underpayment for the number of days it remained unpaid.

Maximum days in a rate period per quarter:

| Installment | Days in Rate | | |
|-------------|--------------|----------|----------|
| | Period 1 | Period 2 | Period 3 |
| 1 | 76 | 184 | 105 |
| 2 | 15 | 184 | 105 |
| 3 | | 107 | 105 |
| 4 | | | 90 |

Payment Application. Your payments are applied to any underpayment balance on an earlier installment. It does not matter if you designate a payment for a later period.

Example: You had an underpayment for the April 15th installment of \$500. The June 15th installment required a payment of \$1,200. On June 10th, you sent in a payment of \$1,200 to cover the June 15th installment. However, \$500 of this payment is considered to be for the April 15th installment. The penalty for the April 15th installment is figured to June 10th. The amount of the payment to be applied to the June 15th installment is \$700.

Subsequent Payments. For purposes of computing the penalty, it may be helpful to make a list of any payments that you made after the timely payments entered in Part I, line 2. If you made no other payments, follow the line-by-line instructions for Part II.

If you made subsequent payments, you may need to make additional computations for the applicable column on the worksheet. However, if

the payment reduced the underpayment to zero, there are no further computations to make for that column. In that case, you count the number of days from the installment due date to the date paid.

If a subsequent payment does not reduce the underpayment to zero, you will need to make an additional computation in the column.

- First, count the number of days from the due date to the date paid and use the underpayment amount from Worksheet II, line 8.
- Second, count the number of days from the payment date to the end of the rate period, and subtract the amount of the subsequent payment from the underpayment amount from Worksheet II, line 8.
- Third, apply the rate for the applicable period.

Worksheet II Regular Method to Figure Your Underpayment and Penalty.

Part I Figure Your Underpayment

- 1 Required Installments.** See instructions.
- 2 Estimated tax paid and tax withheld.** See instructions. For column (a) only, also enter the amount from line 2 on line 6. (If line 2 is equal to or more than line 1 for all payment periods, stop here; you do not owe the penalty. Do not file form FTB 5805 unless you answer "Yes" to a question in Part I.)

COMPLETE LINE 3 THROUGH LINE 9 OF ONE COLUMN BEFORE GOING TO THE NEXT COLUMN.

- 3** Enter amount, if any, from line 9 of previous column
- 4** Add line 2 and line 3
- 5** Add amounts on line 7 and line 8 of the previous column
- 6** Subtract line 5 from line 4. If zero or less, enter -0-. For column (a) only, enter the amount from line 2
- 7** If the amount on line 6 is zero, subtract line 4 from line 5. Otherwise, enter -0-
- 8 Underpayment.** If line 1 is equal to or more than line 6, subtract line 6 from line 1. Then go to line 3 of next column. Otherwise, go to line 9
- 9 Overpayment.** If line 6 is more than line 1, subtract line 1 from line 6. Then go to line 3 of next column

Part II Figure the Penalty. Complete line 10 through line 15 of one column before going to the next column.

Rate Period 1:

April 15, 2008 — June 30, 2008

- 10** Number of days from the date shown above line 10 to the date the amount on line 8 was paid or 06/30/08, whichever is earlier
- 11** Underpayment on line 8 X Number of days on line 10 X .08 (see instructions) 366

Rate Period 2:

July 1, 2008 — December 31, 2008

- 12** Number of days from the date shown above line 12 to the date the amount on line 8 was paid or 12/31/08, whichever is earlier
- 13** Underpayment on line 8 X Number of days on line 12 X .07 (see instructions) 366

Rate Period 3:

January 1, 2009 — April 15, 2009

- 14** Number of days from the date shown above line 14 to the date the amount on line 8 was paid or 4/15/09, whichever is earlier
- 15** Underpayment on line 8 X Number of days on line 14 X .05 (see instructions) 365

- 16 PENALTY.** Add all amounts on line 11, line 13, and line 15 in all columns. Enter the total here, on form FTB 5805, Side 1, Part II, line 13, and on Form 540/540A, line 64; Long Form 540NR, line 71; or Form 541, line 42.